United Nations A/HRC/39/58

General Assembly

Distr.: General
10 July 2018

Original: English

Human Rights Council
Thirty-ninth session
10–28 September 2018
Agenda items 3 and 5
Promotion and protection of all human rights, civil, political economic, social and culture rights, including the right to development

Human rights bodies and mechanisms

Regional arrangements for the promotion and protection of human rights

Report of the Human Rights Council Advisory Committee

GE.18-11383(E)

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I. Introduction

1. Pursuant to the adoption by the Human Rights Council of decision 32/115, the Advisory Committee was mandated to prepare a report on regional arrangements for the promotion and protection of human rights, in particular on the progress made in the establishment of regional and subregional arrangements for the promotion and protection of human rights; their achievements in all regions of the world; and the role that has been played and can be played in the future by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in advancing cooperation between international and regional human rights mechanisms. The Committee was further mandated to identify ways to increase the role that regional and subregional arrangements play in promoting and protecting human rights and to reinforce universal human rights standards, including those contained in international human rights instruments, and to submit the report to the Human Rights Council at its thirty-ninth session. It is hoped that the present submission can take advantage of the celebrations marking the seventieth anniversary of the Universal Declaration of Human Rights and the twenty-fifth anniversary of the Vienna Declaration and Programme of Action to promote the role of regional arrangements.

2. At its seventeenth session in August 2016, the Committee heard presentations from experts, held discussions on regional arrangements for the promotion and protection of human rights and established a drafting group for the preparation of a progress report. The group currently comprises Mohamed Bennani, Laurence Boisson de Chazournes, Mario Luis Coriolano, Karla Hananía de Valera, Mikhail Lebedev, Xinsheng Liu, Kaoru Obata, Katharina Pabel (Chair), Anantonia Reyes Prado, Changrok Soh (Rapporteur) and Imeru Tamrat Yigezu.

3. At the same session of the Advisory Committee, the drafting group elaborated a questionnaire, in accordance with decision 32/115, in which the Council encouraged the Committee to consider the views and inputs of relevant stakeholders. The questionnaire was disseminated to various stakeholders, including States Members of the United Nations, international and regional organizations, relevant special procedures mandate holders and treaty bodies, national human rights institutions and civil society organizations, with a deadline of 31 October 2016. As of 1 February 2017, 23 responses to the questionnaire had been received, including 9 from States, 5 from non-governmental organizations (NGOs), 7 from national human rights institutions and 2 from other organizations.

II. Establishment of regional and subregional human rights mechanisms

4. The present report identifies five regions or areas where regional human rights mechanisms have been (or are to be) established; Europe, the Americas, Africa, the Arab States and Asia.[1] The first four regions already possess regional and subregional mechanisms while Asia only has a few subregional mechanisms. Although regional and subregional human rights bodies are very different, particularly in how their jurisdictions and responsibilities overlap, the present study treats them as different facets of the same process of localizing the protection and promotion of human rights. An overview of those arrangements is set out below.

5. Europe has one of the most effective human rights regimes, stemming in part from its combination of expert networks and intergovernmental cooperation. Its origins date back to the formation of the Council of Europe in 1949 and the adoption of the European Convention on Human Rights and Fundamental Freedoms in 1950. The European Court of Human Rights, established in 1959 and restructured through Protocol 11 in 1998, functions as the main human rights protection mechanism in Europe. All 47 Council of Europe member States are party to the European Convention on Human Rights. Judges are elected

[1] For the purposes of this report, Asia refers to the entire Asia-Pacific region, including Oceania.

by the Parliamentary Assembly of the Council of Europe and enjoy a high degree of independence from their respective Governments. The States can also file State-to-State complaints and in extreme cases even demand expulsion for flagrant and systematic violations of the Convention. The decisions of the Court create binding legal obligations for the State concerned.[2] The European Social Charter, which addresses economic and social rights, is subject to quasi-judicial enforcement. Insofar as they refer to legally binding treaty provisions, the decisions and conclusions of the European Committee of Social Rights — the monitoring body established by the treaty — must be respected by the States concerned, even if they are not directly enforceable in domestic legal systems. They set out the law and can provide the basis for positive developments in social rights through legislation and case law at national level.[3] Other important organizations for the protection and promotion of human rights in Europe include the European Union Agency for Fundamental Rights and the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE).

6. The Inter-American human rights mechanism dates back to the approval of the American Declaration of the Rights and Duties of Man by the Organization of American States (OAS) in April 1948. The Declaration brought about the adoption of the OAS Charter and the Inter-American Commission on Human Rights was established in 1959 to enhance the implementation of human rights protections among the 35 OAS member States. Following the adoption of the American Convention on Human Rights in 1969, the Inter-American Court of Human Rights was established in 1979. The Commission monitors the implementation of human rights by member States by making country visits, publishing country and thematic reports and carrying out on-site visits. It also has a quasi-judicial function in that it can interpret human rights instruments created by the OAS and makes non-legally binding recommendations on individual complaints. Individual applications can be lodged with the Commission based on the Declaration or the Convention.[4] All cases go through the Commission but only those OAS member States that have ratified the Convention and accepted the jurisdiction of the Court can be brought before it. Some other regional human rights treaties, such as the Inter-American Conventions to Prevent and Punish Torture, on the Prevention, Punishment and Eradication of Violence against Women and on Forced Disappearance of Persons, and the Additional Protocol to the Convention in the Area of Social, Economic and Cultural Rights (San Salvador Protocol) also allow for individual petitions to be lodged before the Commission.[5]

7. The African human rights mechanism emerged as a response to the challenges of decolonization, racial discrimination, environmental protection and refugees. The African Charter on Human and Peoples' Rights was adopted in 1981 and came into force in 1986. In accordance with the Charter, the African Commission on Human and Peoples' Rights was set up in 1987. The African Court of Human and Peoples' Rights was established by a protocol to the Charter in 1998, came into force in 2004 and was operational in 2006. As of September 2016, the African Charter had been ratified by 54 of the 55 member States of the African Union, the exception being South Sudan, and nearly half of the member States have ratified the Protocol to the Charter.[6] The Commission accepts individual and State complaints or communications based on the Charter, while the Court on may receive applications either from the Commission, States parties to the Protocol, or African intergovernmental organizations. Non-governmental organizations with observer status before the Commission and individuals from States which have made a declaration accepting the jurisdiction of the Court can also institute cases directly before the Court, but only six African Union member States have accepted the competence of the Court to handle

[2] See European Court of Human Rights, "The EHCR in 50 Questions" (February 2014), available at www.echr.coe.int/documents/50questions_eng.pdf.

[3] For more details, see www.coe.int/en/web/turin-european-social-charter/about-the-charter.

[4] See International Justice Resource Center, "Inter-American human rights system", available from www.ijrcenter.org/regional/inter-american-system/.

[5] Inter-American Commission on Human Rights, "The Organization of American States", available from www.oas.org/en/iachr/mandate/basic_documents.asp.

[6] Other important institutions in the context of the African Union include the African Peer Review Mechanism and the Pan-African Parliament.

such complaints. As of January 2016, the Court had received 74 applications and finalized 25 cases.[7] The Commission, however, has a longer history of judicial work. As of November 2017, it had received 659 communications, of which it had finalized 446. Another important regional human rights mechanism is the African Committee of Experts on the Rights and Welfare of the Child, which is tasked with promoting and protecting the rights enshrined in the African Charter on the Rights and Welfare of the Child, which came into force in 1999 and has been ratified by 48 member States. In addition, there are subregional courts which have over the years adjudicated on a number of important human rights cases, such as the Economic Community of West African States (ECOWAS) Court of Justice and the East African Court of Justice.

8. The current Arab Charter on Human Rights was adopted in May 2004 by the Council of the League of Arab States (LAS) at the Summit level after the revision of an earlier version that was adopted in 1994 but not ratified by any member State. of the League. The Charter entered into force in March 2008, two months after the seventh document of ratification had been deposited with the General Secretariat of the League, pursuant to paragraph 2 of article 49 of the Charter. The Charter has been ratified by 14 out of 22 LAS member States. However, it includes many provisions that are incongruent with international standards.[8] The Arab Human Rights Committee was established in 2009 to oversee the implementation by State parties to the Charter of the rights and freedoms set forth in the Charter and to issue its observations and recommendations in accordance with the provisions of the Charter. In 2014, the LAS Council adopted the Statute of the Arab Court of Human Rights. The Court will have jurisdiction over all cases resulting from the implementation and interpretation of the Charter, or any other Arab convention in the field of human rights. Another important mechanism to consider is the Organization of Islamic Cooperation (OIC), a transregional organization with members in Africa, Europe, Asia and even South America. The OIC Independent Permanent Human Rights Commission was launched in 2011 and has identified the rights of women, the rights of the child, human rights education and the right to development as its key priorities.[9]

9. The Asia-Pacific region does not yet possess a regional arrangement for the protection of human rights, even though several workshops to discuss the possibility have been convened since 1990.[10] However, some progress has been made at the subregional level, particularly in South-East Asia. The first agreement of the Association of Southeast Asian Nations (ASEAN) to consider the establishment of a regional human rights arrangement was made in June 1993 following the Vienna Declaration and Programme of Action. In November 2007, the ASEAN member States signed the Charter of the Association of South East Asian Nations, in which the promotion and protection of human rights was expressed, along with a commitment to the establishment of a regional human rights mechanism. Accordingly, the ASEAN Intergovernmental Commission on Human Rights was established in July 2009. In 2012, the countries of ASEAN unanimously adopted the ASEAN Human Rights Declaration but a human rights court has not yet been established. Although progress at the subregional level is promising, a regional framework for the entire Asia region is still a work in progress.[11] One example of this was the proposal by the Constitutional Court of the Republic of Korea to create an Asian human rights court, which was announced at the third congress of the World Conference on Constitutional Justice in 2014.

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[7] See http://en.african-court.org/index.php/cases/2016-10-17-16-18-21#finalised-cases.

[8] See Mervat Rishmawi, "The revised Arab Charter on Human Rights: a step forward?", *Human Rights Law Review*, vol. 5, No. 2 (January 2005).

[9] See www.oic-iphrc.org/en/about.

[10] See www.hurights.or.jp/archives/focus/section2/1997/03/un-workshops-on-regional-arrangement-for-human-rights-in-the-asia-pacific.html.

[11] See ASEAN Intergovernmental Commission on Human Rights, available from http://aichr.org/press-release/the-adoption-of-the-asean-human-rights-declaration-ahrd-at-the-21st-asean-summit-and-the-special-meeting-of-the-asean-intergovernmental-commission-on-human-rights-aichr/.

III. Achievements of regional and subregional human rights arrangements

Judicial and quasi-judicial decisions

10. The most visible contributions of regional human rights arrangements have occurred in the form of court rulings and attempts by commissions to sway the behaviour of member States.[12] The Inter-American Commission on Human Rights and the landmark decisions of the Inter-American Court of Human Rights even have an impact on countries beyond the scope of the original ruling. For example, military officers from several Latin American dictatorships had benefited from amnesty laws until the Court ruled in the case of *Barrios Altos v. Peru* in 2001 that they were in violation of international human rights law. Consequently, several countries, including Argentina and Chile, repealed their amnesty legislation and began to prosecute military officers for violations going back to the 1970s. Indeed, throughout the 2000s, the preventive approach of the Court to human rights violations, especially its demands for reparations, led some to consider it a "unique driving force for change."[13]

11. The decisions of the European Commission of Human Rights[14] and later the European Court of Human Rights have also had a considerable impact on law and practice in several States. Examples of this include changes to detention practices in Belgium, Germany, Greece and Italy, the treatment of aliens in the Netherlands, Switzerland and other countries, press freedom legislation in Britain, wiretapping regulations in Switzerland, legal aid practices in Italy and Denmark, procedures to speed up trials in Italy, the Netherlands and Sweden, and privacy legislation in Italy.[15] In *Dudgeon v. United Kingdom* in 1981, the Court held that the criminal laws of Northern Ireland prohibiting consensual sex between consenting adult males violated the right to privacy, as protected by article 8 of the European Convention on Human Rights. As a consequence of the judgment, homosexual relations between males were decriminalized in Northern Ireland in 1982.[16] Even if the judgments of the Court are only formally binding vis-à-vis the respective State, the case law develops human rights standards with significant relevance for all member States.

12. In 2001, the African Commission on Human and Peoples' Rights considered a communication that dealt with alleged violations of the human rights of the Ogoni people in Nigeria. It marked the first time the Commission was able to deal with alleged violations of economic, social and cultural rights in a substantial and firm manner.[17] Another interesting example of court activism is the East African Court of Justice, which has reinterpreted its mandate to include cases of human rights violations.[18] Furthermore, the ECOWAS system, which is best known for its jurisprudence on women's and children's rights, allows *actio popularis*, the filing of complaints by third parties on behalf of victims, which even the European mechanism does not permit.

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[12] It should be noted that the African, Inter-American and European commissions on human rights, among other regional arrangements, use precautionary measures where there is an imminent risk of irreparable harm to individuals or groups. That is a powerful protection mechanism, especially for human rights defenders at risk.

[13] Geneviève Lessard, "Preventive reparations at a crossroads. The Inter-American Court of Human Rights and Colombia's search for peace", *International Journal of Human Rights*, (January 2017).

[14] The precursor of the enlarged European Court of Human Rights until the entry into force of Protocol 11 in 1998.

[15] See Jack Donnelly, *Universal Human Rights in Theory and Practice*, 3rd ed. (Ithaca, New York, Cornell University Press, 2013).

[16] European Court of Human Rights factsheet, "Homosexuality: criminal aspects", (2014), available at www.echr.coe.int/Documents/FS_Homosexuality_ENG.pdf.

[17] Fons Coomans, "The Ogoni case before the African Commission on Human and Peoples' Rights", *International and Comparative Law Quarterly*, vol. 52 (July 2003).

[18] Ally Possi, "The East African Court of Justice: towards effective protection of human rights in the East African Community", *Max Planck Yearbook of United Nations Law*, vol. 17 (2013).

Standard setting

13. Although court decisions, by establishing legal precedents, constitute a form of strong standard-setting, regional arrangements are also successful at diffusing and reinforcing human rights norms and standards in their regions in cooperation with member States. The European human rights regime has contributed to human rights advancements within European countries and serves as a reference model worldwide. The creation of and high compliance with human rights norms has been possible due to strong pre-existing norms within Europe, but the European Convention on Human Rights has also helped to develop human rights standards in new member States, particularly with the accession of many eastern and south-eastern member States after 1990. Montenegro, which acceded to the Council of Europe in 2007, exemplifies the way in which a regional human rights mechanism can assist standard-setting in a collaborative fashion, not only through court rulings. According to the Government of Montenegro, the country has adopted numerous strategic documents and action plans, including on displaced people, improvement of the status of Roma and Egyptians, human trafficking, lesbian, gay, bisexual and transgender rights and the protection of children and the elderly. In terms of legal changes, Montenegro has amended the Law on the Prohibition of Discrimination, the Law on Gender Equality, the Law on the Protector of Human Rights and Freedoms and adopted a Law on the Prohibition of Discrimination against Persons with Disabilities. In line with recommendations from the Council of Europe, Montenegro also included a comprehensive definition of hate speech in the Law on the Prohibition of Discrimination.[19]

14. This collaborative approach is evident in Africa as well. At its fifth session, the African Commission on Human and Peoples' Rights resolved that States parties should incorporate the teaching of human rights into their educational curricula and establish committees on human rights at national, subnational and regional levels. Some African countries, such as Nigeria, have incorporated the provisions of the African Charter on Human and Peoples' Rights into their domestic law. The Commission has also sponsored a number of seminars and international conferences covering a broad spectrum of issues, such as community work, economic, social and cultural rights, HIV and AIDS in Africa, prisons and women's rights.[20]

Publication of country reports, on-site observation and country visits

15. Regional arrangements also play a crucial role in collecting and disseminating information about human rights conditions in the region, which allows cross-country comparisons and the development of best practices. In 2014, the press unit of the European Court launched six new factsheets on the case law concerning elderly people, persons with disabilities, political parties and associations, hunger strikes in detention, migrants in detention and domestic violence. It has now prepared a total of 59 factsheets in English and French, many of which have also been translated into German, Italian, Polish, Romanian, Russian and Turkish with the support of the Governments concerned. The press unit has also prepared country profiles covering each of the 47 member States. In addition to general and statistical information on each State, the country profiles provide information on the most noteworthy cases concerning that State.[21]

16. Between 1970 and 1980 the Inter-American Commission on Human Rights put pressure on repressive Governments. Its reporting on Chile and Argentina under military law had particular significance for internal and international human rights advocates. In the early 1990s, the Commission began to closely monitor countries with fragile democratic institutions that were still experiencing political violence. It published four reports on the human rights situation in Haiti between 1990 and 1995 and three reports on Guatemala between 1993 and 2001. In 1998, the Commission visited Peru and prepared a

[19] Survey response by the Government of Montenegro.

[20] Timothy F. Yerima, "Over two decades of African Commission on Human and People's Rights: flying or fledgeling", *Global Journal of Human Social Science Arts and Humanities*, vol. 12, No. 12 (2012).

[21] See, for example, European Court of Human Rights, annual report 2014.

comprehensive report on the human rights situation. The report was released in June 2000 and was crucial in ending the Fujimori regime.[22] In 1999 the Commission published a major report on the human rights situation in Colombia, in which for the first time it considered international humanitarian law, i.e., the law of armed conflict, to identify the legal regime governing the ongoing internal armed conflict. More recently, reports were issued on Guatemala (2016) and the Bolivarian Republic of Venezuela (2018) which drew attention to serious human rights challenges in those countries. The Commission has also publicized prominent individual cases, such as its issuance of a public condemnation of the murder of human rights defender Marisela Escobedo in Mexico.[23] It regularly conducts on-site visits to countries and publishes press releases with its recommendations. The Commission issues an annual report, in which it highlights the most serious human rights violations in the Americas. It also publishes thematic reports, of which the most recent refer to the criminalization of human rights defenders and human rights standards in relation to human mobility. Furthermore, it has been asking for transparency about the detention facility at Guantánamo Bay, Cuba, and urging its closure since the early 2000s.

17. While the African Commission on Human and People's Rights is responsible for reviewing State compliance through biannual reports on country efforts to implement the African Charter, many States combine several years' worth of reports instead of submitting biannual reports. Moreover, seven member States have yet to submit a report at all. That can be attributed to a lack of resources and interest in those States. African Commission communications have only a 15 per cent implementation rate. Nevertheless, even that level of transparency has had an impact. According to the Government of Kenya, the reporting requirements of the regional mechanism have played a major role in strengthening the rights of indigenous people. The new Kenyan Constitution provides several avenues for the protection and strengthening of the personal and collective rights of indigenous peoples. Article 27 obliges the State to develop legislation and affirmative action programmes. Article 56 obliges the State to provide for adequate representation of "marginalized groups" at all levels of government, undertake affirmative action on behalf of those groups and promote the use of indigenous languages and the free expression of traditional cultures. Article 100 requires the legislature to enact a law which will promote the representation of marginalized communities.[24]

18. The Arab Human Rights Committee carried out its first examination of State reports in 2012 and 2013, starting with Jordan, then Algeria and Bahrain. The concluding remarks of the Committee are now published on its website in Arabic. Civil society organizations are allowed to disseminate the concluding remarks in their countries for public outreach (through the media, websites and social networks) and follow up with the national authorities.[25]

IV. Challenges faced by regional and subregional human rights arrangements

Structural and financial challenges

19. Broadly speaking, structural challenges refer to the way in which a lack of political will, membership issues, or greater than expected demand have manifested themselves in poorly resourced or unbalanced regional arrangements. The global human rights system is trying to do more with less. Thus, the greatest obstacle to the effective functioning of both the Inter-American Commission and Court is the lack of adequate human and financial resources. The 30 staff lawyers at the Commission, who are presently handling nearly 1,250

[22] Robert K. Goldman, "History and action: the inter-American human rights system and the role of the Inter-American Commission on Human Rights", *Human Rights Quarterly*, vol. 31, No. 4 (November 2009).

[23] See www.oas.org/en/iachr/media_center/preleases/2011/127.asp.

[24] Survey response by the Government of Kenya.

[25] See report of the International Federation for Human Rights and others on a seminar held in Cairo in February 2013, "The Arab League and human rights: challenges ahead", (May 2013).

open cases, cannot keep pace with the annual increase in the number of petitions and thus cannot meet the reasonable expectations of States and victims for their prompt resolution. The Commission receives an average of over 2,000 new petitions each year.

20. Membership issues also hinder both the Inter-American Commission and the Court. As of 2013, 25 of the 35 OAS member States had ratified the Convention, while 2 have subsequently denounced it, leaving 23 active parties. Only 21 of those parties have acknowledged the jurisdiction of the Court in contentious cases. Notably, the United States of America and Canada have not ratified the American Convention on Human Rights, although the United States remains the largest donor of voluntary funds to the Commission, despite the fact that it has not signed the Convention. It contributes $2.3 million a year and an additional $300,000 to the Special Rapporteur for freedom of expression. Very few OAS member States contribute voluntary funding to the Commission and the Court.[26] In 2016, when the Commission faced its most serious financial crisis, OHCHR was crucial in calling attention to the problem. Among the challenges facing the Arab Human Rights Committee are the delayed submissions by States parties of their first and periodic reports on the implementation of the Arab Charter on Human Rights and the effective implementation of the Committee's recommendations at the national level. Furthermore, eight LAS member States have still not ratified the Charter and are therefore not yet members of the Committee.

21. The African Commission for Human and Peoples' Rights also faces many structural and resource challenges. Among them are a lack of capacity to ensure that the system is accessible to rights holders and that norms and standards are effectively implemented and enhanced at the national level; to monitor the non-compliance of member States with their obligation to submit regular reports; to overcome challenges in implementing the decisions of the Commission; and a very limited operating budget. For example, in 2002/2003, the Commission only had a budget of $790,000, although this was subsequently increased to around $7.9 million in 2011.[27] As with OAS, fiscal challenges are compounded by membership problems. As of July 2017, only 8 of the 30 States parties to the Protocol to the Charter had made the declaration recognizing the competence of the Court to receive cases from NGOs and individuals. They are Benin, Burkina Faso, Côte d'Ivoire, Ghana, Malawi, Mali, Tunisia and the United Republic of Tanzania.[28] Moreover, only 26 States have accepted the jurisdiction of the Court. In its response to the survey, the Government of Kenya noted a lack of political will to implement the decisions of the Court and a lack of adequate funding as the main obstacles.

22. Although it boasts the best-funded regional arrangement in the world, Europe also has a problem with structural imbalances. Within the European system, the Convention makes provision for civil and political rights only, while the European Social Charter covers social and economic rights. The two are not treated equally: while accession to the Convention is a condition of Council of Europe membership, it is not a requirement for the Charter, underlining the lesser status accorded to social and economic rights in the European system.[29] Ironically, the most critical problem appears to be the mounting number of individual complaints. A combination of factors - the positive public reputation of the Court in some countries, its expansive interpretation of the Convention and entrenched human rights problems in other countries - has attracted tens of thousands of new individual applications annually. Such cases often last for years, resulting in a mounting backlog. As of September 2016, the Court had issued more than 10,000 judgments but had more than 74,000 pending cases. Some say the Court is becoming a victim of its own success and now

[26] Survey response by the Government of the United States.

[27] See Frans Viljoen, *International Human Rights Law in Africa*, 2nd ed. (Oxford, Oxford University Press, 2012).

[28] The following 30 member States have ratified the Protocol: Algeria, Benin, Burkina Faso, Burundi, Cameroon, Chad, Comoros, Congo, Côte d'Ivoire, Gabon, Gambia, Ghana, Kenya, Libya, Lesotho, Malawi, Mali, Mauritania, Mauritius, Mozambique, the Niger, Nigeria, Rwanda, Sahrawi Arab Democratic Republic, Senegal, South Africa, Togo, Tunisia, Uganda and the United Republic of Tanzania.

[29] See Anna Greer and Louis J. Kotzé, eds., *Research Handbook on Human Rights and the Environment* (Cheltenham, Edward Elgar Publishing, 2015).

faces a docket crisis of massive proportions. There also remain substantive questions about how the Court accomplishes its core mandate - protecting the civil and political rights enshrined in the Convention - and whether the procedural framework it uses to achieve that goal needs to be revised in response to changes in the legal and political landscape of human rights protection in Europe.[30] On a positive note, however, the backlog has been decreasing since 2014 owing to institutional reforms.

Procedural challenges

23. Procedural problems are typically the result of institutional design decisions, subsequent modifications, or day-to-day practices that serve to limit the efficacy or scope of a regional arrangement. While the League of Arab States which was founded in 1945, was the first regional mechanism recognized by the United Nations, it was almost 60 years before member States adopted the Arab Charter on Human Rights. There exists a window of opportunity to further enhance the compatibility of the Charter with international human rights standards. The Arab Human Rights Committee can only receive State reports and issue recommendations. It cannot decide on individual or inter-State complaints. The final draft for the statute of the Arab Court of Human Rights has been revised to restrict access to the Court to States parties only. However, member States can, at their discretion, permit civil society organizations to present cases on behalf of individuals.

24. The Inter-American Court has a special unit dedicated to monitoring compliance with its judgments and the average duration of the cases before it was 20 months in 2016, less than the 24 months in 2014. The Inter-American Commission currently has no strong institutionalized form of follow-up, although it is creating one. However, individual complaints often take too long before the Commission, resulting in a backlog of cases. It can take three or more years for the Commission to forward a petition to the relevant State for an initial response.[31] According to the 2016 annual report of the Commission, it received 2,567 petitions in that year alone, adding to a backlog of thousands of pending cases.[32]

25. The 11 members of the African Commission on Human and People's Rights are part-time but fulfil numerous functions, which may limit the capacity of the Commission. Commissioners and judges of the African Court are elected by the African Union to ensure independence.[33] However, some scholars consider the coverage of human rights by the African Charter to be incomplete by international standards. For example, article 6 of the Charter states that "no one may be deprived of his freedom except for reasons and conditions previously laid down by law." This means that as long as there is a pre-existing law, Governments may deprive people of their freedoms.[34] However, it should be noted that these "clawback" provisions are fairly common in legal language and that the African Commission has so far maintained a strict interpretation of them, thereby preventing their abuse.

26. The ASEAN Charter fails to provide an effective enforcement mechanism, as it continues to emphasize sovereignty, territorial integrity and non-interference in domestic affairs. Thus, the Intergovernmental Commission on Human Rights is comprised of government appointees accountable to their Governments, who can remove the appointees at their discretion. It operates by consensus, which gives each State an effective veto over the decisions of the Commission. In fact, the mandate of the Commission does not contain explicit provisions for receiving and investigating complaints of human rights violations. Discussions of complaints take place in closed meetings, so it cannot be confirmed whether and which cases have been discussed. The Commission has yet to take public action in

[30] See Laurence R. Helfer, "Redesigning the European Court of Human Rights: embeddedness as a deep structural principle of the European human rights regime", *European Journal of International Law*, vol. 19, No. 1 (2008).

[31] Survey response by the Government of the United States.

[32] See www.oas.org/en/iachr/docs/annual/2016/TOC.asp.

[33] See www.au.int/en/organs/cj.

[34] See Sandhiya Singh, "The impact of clawback clauses on human and peoples' rights in Africa", *African Security Review*, vol. 18, No. 4 (2009).

response to a complaint. Although NGOs are striving to improve human rights conditions in Asia, that is proving to be difficult because the Commission has largely excluded civil society organizations from participation in its initiatives.[35]

V. Role of the Office of the United Nations High Commissioner for Human Rights in the advancement of regional and subregional human rights arrangements

27. Mandated by Human Rights Council resolutions, OHCHR has consistently organized workshops aimed at enhancing cooperation between the United Nations and regional human rights mechanisms, including information-sharing on best practices and lessons learned and discussions on possible new forms of cooperation. A key success story, for example, is the Addis Ababa road map adopted by the special procedures of the United Nations and the African Commission on Human and People's Rights.[36] International workshops on regional arrangements, preceded by consultations, were held in 2008, 2010, 2012, 2014 and 2016. Furthermore, OHCHR has a dedicated section, the National Institutions, Regional Mechanisms and Civil Society Section, which is responsible for supporting regional mechanisms. Although a key achievement has been the creation of a network of 17 focal points for cooperation between regional mechanisms, which hold annual meetings and coordinate the biannual workshops, this activity is coordinated by a single person in the Section.

28. OHCHR supports the establishment and operation of national and regional human rights organizations through capacity-building, such as training and technical assistance, and facilitating information flows. The technical assistance programme integrates support for national institutions with other forms of United Nations assistance, but more needs to be done for effective capacity-building. In its response to the survey, the Government of Kenya noted that it had faced a challenge with regard to training on various human rights issues. It stated that more support was required for human rights awareness campaigns, especially in regard to the abolition of the death penalty and the training of government officers on a human rights-based approach to programming and planning, in order to build their capacity to provide service delivery in a meaningful way. In its response, the National Council for Human Rights of Egypt also noted that OHCHR could play an important role by conducting training for the staff of the institutions concerned, helping to develop information and documentation systems, and facilitating exchange of experience with relevant institutions, especially those belonging to the international system of human rights protection. OHCHR could also help to establish regional offices and human rights centres that would provide an additional structure promoting the concept of regional protection of human rights.

29. OHCHR also assists with the diffusion of international human rights standards to regional arrangements. In the case of the League of Arab States, OHCHR provided assistance in revising the 1994 version of the Arab Charter on Human Rights to improve its compliance with international human rights standards.[37] OHCHR has encouraged the security architecture of the African Union to adopt a human rights approach and supported the 2017 African Union high-level dialogue on human rights, as well as planning for the 10-year action and implementation plan for the promotion and protection of human rights. In the Americas, OHCHR supported the Inter-American Commission during its 2013 reform process and helped to raise public awareness during its budgetary crisis in 2016. In 2017 in the Middle East, valuable training on United Nations human rights mechanisms was provided to the OIC Independent Permanent Human Rights Commission. Of course, there are still challenges. It has been pointed out that OHCHR may consider facilitating staff exchange and peer advice for regional mechanisms, provide regular training and

[35] See https://humanrightsinasean.info/asean-intergovernmental-comission-human-rights/about.html.

[36] See www.ohchr.org/Documents/HRBodies/SP/SP_UNHRC_ACHPRRoad%20Map.pdf.

[37] Mervat Rishmawi, *The League of Arab States Human Rights Standards and Mechanisms: Towards Further Civil Society Management: a Manual for Practitioners* (2015).

publish its performance assessment of regional mechanisms to identify areas where it can provide further support.[38]

30. Working towards this end, OHCHR has set up 12 regional offices and is currently carrying out plans to establish more in Asia. The regional offices have facilitated various forms of planning and cooperation between international and regional or subregional mechanisms. Key examples of those strategic activities include the annual meetings held by the secretariats of OHCHR and the Council of Europe since 2007; the joint declarations on the reinforcement of cooperation with the Council of Europe (in 2013) and the OSCE Office for Democratic Institutions and Human Rights (in 2014); and the participation of judges from the European Court of Human Rights in the Human Rights Committee session in July 2016 and of judges from the European Court and the Inter-American Court in the session of the Committee against Torture in December 2017. OHCHR, which signed a joint declaration with the Inter-American Court in 2014, now participates in planning activities with both the Inter-American Commission and the Court, which in 2016 included meetings, training and seminars in Washington, D.C., Guatemala and Panama City. Another accomplishment was a workshop on regional and subregional human rights courts held at Strasbourg, France, in 2015, which allowed the sharing of jurisprudence and best practices by judges and experts from Africa, the Americas and Europe.

31. OHCHR plays a pivotal role in bridging the gap between regional human rights mechanisms and the broader international community. For example, joint public statements and technical cooperation with regional and subregional organizations have been an important tool in denouncing violations and in assisting States to comply with international legal standards.

VI. Contribution of other actors to regional and subregional human rights arrangements

National human rights institutions

32. National human rights institutions, which vary in size and capacity from country to country, support regional mechanisms directly by creating connections for national actors at the international level. For instance, in its response to the survey, the National Council for Human Rights of Egypt explained that the effectiveness of the African human rights mechanism could be improved by strengthening cooperation with national human rights institutions, increasing awareness of the competences and goals of both the African Commission on Human and People's Rights and the African Court on Human and People's Rights, exchanging experiences with other regional mechanisms and learning from success stories that have made these institutions more effective. It also noted that the African Union Commission and the Network of African National Human Rights Institutions signed a memorandum of understanding in January 2016 and have developed guidelines on the role of national human rights institutions in monitoring the implementation of the findings of the African Commission and the judgments of the African Court. European national human rights institutions have created the European Network of National Human Rights Institutions to coordinate their activities across a range of human rights issues. Finally, there is the Global Alliance of National Human Rights Institutions, which was established in 1993.

33. Owing to their role of ensuring fluid connections with human rights actors, national human rights institutions have the potential to foster active dialogue between United Nations and regional human rights regimes worldwide. Such institutions network both with each other and with OHCHR in Geneva on a regular basis through annual meetings and in regional meetings. Given the now recognized international status of national human rights institutions, their potential to advance human rights is manifest.[39] The Iberoamerican

[38] Survey response by the European Union Agency for Fundamental Rights.

[39] See John von Doussa, "The potential role of national human rights institutions in the Pacific", paper given at the Australasian Law Reform Agencies Conference (September 2008).

Federation of Ombudsman has played this role in the Americas, linking national, regional and United Nations systems. Another example is the Asia Pacific Forum of National Human Rights Institutions, one of the most effective forms of collaboration in the region. Established in 1996, the organization aims to support the establishment and efficient operation of national human rights institutions in Asia and currently has 24 members. The key roles of the Forum include building stronger national human rights institutions; providing advice and expertise; collaborating and sharing knowledge; promoting gender equality; contributing at the national, regional, and international level; and supporting effective leadership and governance. It thus opens up new avenues for strengthening human rights protections for the inhabitants of the region.

Civil society

34. NGOs push reluctant Governments to step up their human rights protection efforts by pressuring them to ratify international human rights treaties. After ratification, they also help to evaluate compliance. NGO monitoring and reporting serves are invaluable sources of information for the enforcement authorities of regional regimes. In one example, the International Commission of Jurists complained to the European Committee of Social Rights that child labour incompatible with the European Social Charter was common in Portugal. That led to Portugal amending its Constitution to prohibit the employment of schoolchildren and increasing the minimum age for employment, which caused a dramatic drop in violations.[40]

35. The productive engagement of NGOs in other regional mechanisms is also visible. Although many NGOs are active, only a few examples can be cited. The Center for Justice and International Law has participated in over 300 cases before both the Inter-American Commission and Court on behalf of more than 13,000 victims. Its success has translated into, among other things, the payment of monetary reparations (more than $66 million to almost 2,500 victims); the reopening of investigations and cases that had earlier been met with impunity; public apologies by high-ranking government officials; and changes in the laws and practices of States.[41] In Africa, the rules of procedure of the African Commission allow NGOs to sit in on public sessions of the Commission and of its subsidiary bodies. There are 515 NGOs with observer status with the Commission and the engagement of civil society has been further enhanced by the NGO forum, an advocacy platform coordinated by the African Centre for Democracy and Human Rights Studies, which convenes in advance of sessions of the Commission.[42]

36. Although Asia does not yet have a regional human rights arrangement, civil society is working towards this goal. In 1993, building on earlier groundwork, more than 110 NGOs from 26 countries across Asia adopted the Bangkok NGO Declaration of Human Rights, a hopeful step towards cooperative transborder human rights activism. Continued efforts to build a comprehensive system of human rights norms led to the issuance of the Asian Human Rights Charter in 1998, an important demonstration of the existence of a normative consensus among representatives of Asian civil society. Although many countries in the region do not have strong domestic civil societies, Asian NGOs have compensated by creating transnational networks focusing on networking, coalition-building, capacity-building and advocacy across borders, while also putting effort into monitoring, documentation, campaigning, and training. For instance, the Asian Forum for Human Rights and Development (Forum-Asia), one of the most prominent transnational NGOs based in South-East Asia, has been implementing human rights advocacy programmes in ASEAN countries to ensure the effectiveness of ASEAN human rights institutions and is also making strenuous efforts to raise public awareness of and bring government attention to regional human rights cooperation in Asia.

37. As of now, however, many NGOs, especially those in Africa, Asia and the Middle East, suffer from a lack of legal protection and the resources to successfully carry out their

[40] *International Commission of Jurists v. Portugal*, complaint No. 1/1998.

[41] See www.cejil.org/sites/default/files/legacy_files/Report20_ENpdf.pdf.

[42] For more information, see www.acdhrs.org/ngo-forum/.

activities.[43] According to the online monitor run by CIVICUS, civil society space is narrowed, obstructed, repressed and even closed in most countries around the world, with only a few northern European countries and New Zealand classified as truly open.[44] Shrinking civil society space suggests that NGO efforts to create subregional and regional mechanisms from the bottom up cannot succeed unless they receive sustained support and coordination by international actors.

VII. Implications for the protection of human rights through regional and subregional human rights arrangements

38. The foregoing analysis of the achievements and challenges of regional human rights arrangements suggest that the most important factors determining the success or failure of regional human rights mechanisms include the following factors:

(a) Commitment:

(i) The intent and will of individual States to conform to regional and international standards;

(ii) Signing and ratification by most, if not all, of the States in the region;

(iii) Changes in laws or legal practices by individual States in the region;

(iv) Securing adequate human and financial resources for the regional and subregional human rights arrangements;

(b) Procedures:

(i) Ensuring the institutional independence of judges from national interests and influences;

(ii) Resolving backlogs and delays in human rights mechanisms (especially courts) and preventing future backlogs;

(iii) Establishing enforcement mechanisms for decisions by regional human rights mechanisms;

(iv) Monitoring mechanism to follow up on decisions and increase transparency;

(v) Maintaining the integrity and neutrality of regional mechanisms;

(c) Collaboration:

(i) Alliances between global and local human rights organizations to uphold international standards and hold perpetrators of violations accountable;

(ii) Role of national human rights institutions in coordinating and strengthening the implementation of decisions and increasing the likelihood of compliance;

(iii) Protection of and participation by members of civil society in submitting petitions, representing victims, pressuring responsible actors and following up on court decisions.

39. Ideally, the efficient functioning of a regional mechanism requires all three factors to operate in unison. A lack of member State commitment undercuts the vitality of the entire structure, while a mismatch between commitment and collaboration will create adversarial relationships that complicate the procedural level. Although the potential for procedural flaws and inefficiencies exists in all regional arrangements, a synergistic relationship between member State commitment and collaboration with international and civil society

[43] Council on Foreign Relations, International Institutions and Global Governance Program, "The global human rights regime" (May 2012), Available from www.cfr.org/human-rights/global-human-rights-regime/p27450.

[44] See https://monitor.civicus.org/.

actors helps to identify and manage such problems and, in the best cases, literally ties all three levels together into a closely functioning and self-reinforcing system.

40. Conceptualizing successful regional mechanisms as integrated systems of commitment, procedure and collaboration has important implications for ongoing efforts to create new regional arrangements. First, it highlights the importance of the commitment of member States but emphasizes that this factor does not exist in isolation. Collaboration with domestic and international actors is required, even in the presence of strong member State commitment, just as domestic and international actors cannot succeed without member State commitment. This suggests that thinking sequentially is problematic when creating new arrangements. Rather, a successful regional arrangement requires the parallel development of self-supporting levels of collaboration, procedure and commitment. Modest but balanced arrangements that are allowed to evolve organically may be more sustainable than ambitious projects that seek to do too much too quickly.

41. Guaranteeing the commitment of member States to a regional human rights arrangement may be hindered because of different types of State governance. In contrast to norms prevailing in other regions, many Asian countries regard human rights issues as a domestic issue. Since non-interference in domestic affairs is one of the principles explicitly underlying the ASEAN founding documents, efforts to internationalize human rights protection within the ASEAN framework are expected to encounter procedural problems Furthermore, Asian countries tend to prioritize government-centred policy initiatives for creating economic development and accept the relegation of individual rights for the collective good.[45] Those differences, combined with the growing economic and political importance of Asia in the world, suggest that a simple transference of European models may not be a realistic expectation.

42. Strong commitment by a powerful country or small group of countries could be one way to generate momentum for a regional arrangement in Asia. As we have seen, a similar role was played by the United States in creating and financing the Inter-American human rights mechanism. For many international regimes, the presence of a leading nation is very important. However, many Asian powers do not appear to be willing to take on this role.

43. Thus, there appear to be three possible routes to creating an Asian regional human rights arrangement. The first is the narrow approach. That would consist of the creation of a small subregional human rights arrangement that is geographically limited but marked by a high degree of commitment, procedures closely modelled on best practices and deep collaboration with international actors and civil society. For example, an Asian human rights regime could be centred on a country with a strong human rights record and then expand to neighbouring countries. That approach would have the advantage of maximizing the protections for the inhabitants of member States in accordance with international standards but could experience growth difficulties if its convention and enforcement mechanisms were perceived as too intrusive.

44. The second route is the wide approach. That would consist of the negotiation of a broad and inclusive human rights arrangement that encompasses the entire region. Owing to widely divergent cultural values, types of governance and member State preferences, a successful agreement would necessarily reflect the lowest common denominator. In all likelihood, such an organization would be underfunded, procedurally handicapped and would limit the opportunities for civil society engagement. Nevertheless, its existence would be highly symbolic, provide at least a modicum of protection to the largest number of people and could help to encourage member States to show more commitment in the future.

45. The third route to a regional arrangement in Asia would consist of a networked approach, which closely resembles the method adopted in Africa. That would consist of the development of multiple and overlapping subregional mechanisms among like-minded countries. Those mechanisms would not have the same procedures because compromises

[45] See Amartya Sen, *Human Rights and Asian Values* (New York, Carnegie Council on Ethics and International Affairs, 1997).

would be necessary when establishing each body, realistically taking into account which provisions member States would be comfortable ratifying and implementing. Attention should be focused on the extent to which compromises could be made. This approach could lead to the proliferation of organizations based on subregions, such as Central, Eastern, Northern, South-eastern, Southern and Western Asia. Those organizations would cooperate with each other but would reflect the distinctive approach to human rights protection of each subregion. In parallel, further international agreements could be created at the regional level focusing on addressing common issues, such as child poverty or the rights of the elderly, or technical issues such as consumer privacy rights. In the long run, of course, efforts would be needed to integrate these diverse subregional rights systems and single issue regimes into a coherent whole. Criss-crossing the region with a network of subregional arrangements would allow countries to move at their own pace. In doing so, they would be encouraged by international civil society and assisted by the United Nations system.

46. It is clear from the case of Europe and other successful regional arrangements in Africa and the Americas that strong regional cooperation and coordination greatly contribute to the consolidation of universal human rights. The networked approach is not only effective in creating new regional mechanisms, it will also revitalize existing ones. Joint networks are essential for ensuring that overlapping global, regional, subregional and national human rights actors maximize their potential and avoid jurisdictional conflict. For stronger and more effective regional mechanisms, all actors, including Governments and civil societies, will need to play important roles in promoting multilevel cooperation, which will include national assemblies, courts, national human rights institutions, private sector representatives and scholars from various fields. Specifically, there needs to be awareness that sustainable procedures are the result of a careful balance between commitment and collaboration. Finding that balance requires careful research, honest negotiations and a willingness to listen and learn by local and international actors alike. Put simply, human rights can be implemented to the fullest extent only when Governments, citizens and international civil society are willing to engage in the process.

VIII. Conclusions and recommendations

Conclusions

47. **Regional human rights mechanisms have made important achievements in protecting human rights around the world. The European regime has made great strides in changing laws and practices in its member States, including enhancing the protections for vulnerable populations such as same-sex couples and children. The Inter-American Commission on Human Rights has helped to protect human rights defenders and the rights of indigenous peoples, and has issued reports on member States. The African Commission on Human and People's Rights and the Arab Human Rights Committee publish reports which are used by civil society actors to further advocate for the protection and promotion of human rights.**

48. **Despite these successes, regional human rights mechanisms are still struggling to overcome serious limitations. Some of them do not enjoy the membership of all States within their respective regions. In the case of the Inter-American human rights mechanism, the United States, Canada and most Caribbean States have not ratified the relevant convention. Likewise, some African and Arab States have not ratified their respective regional human rights conventions either. In Asia, there is no region-wide human rights arrangement. Regional arrangements also have many operational limitations, including restrictions on the independence of judges, an inability to enforce their decisions, or serious backlogs of cases. A lack of political will by relevant States and insufficient funding are also serious obstacles, even in Europe.**

49. **The United Nations is essential to forging a complementary relationship between regional and universal arrangements, because it is in a position to work with all regional mechanisms and promote further exchanges of information and good practices between them. South-South cooperation is vital in strengthening existing**

regional mechanisms and developing new ones. The United Nations can also strengthen the international legal order by actively promoting the exchange of jurisprudence between regional mechanisms and active dialogue regarding common issues and best practices. That is important for resolving potential tensions between the universal approach to human rights and regional approaches. More specifically, the partnership between OHCHR and human rights mechanisms (particularly through its regional and country offices and through its special procedures and treaty bodies) has proven crucial in the promotion and protection of human rights at the local level. OHCHR helps regional mechanisms and States with drafting human rights instruments, following up on the universal periodic review, supporting the work of national human rights institutions, providing platforms and training, and by acting as a bridge between global and regional mechanisms.

50. National human rights institutions and civil societies have also contributed to regional and subregional human rights arrangements. They play a special role as an institutional bridge between individuals and States and between States and international society. Meanwhile, members of civil society have made significant contributions to ensuring the long-term effectiveness of regional human rights arrangements. NGOs, although facing resource constraints and shrinking civil society space, successfully spread human rights values, lobby Governments, publish independent reports, create blueprints for further human rights progress, draft human rights conventions and even help to create new international bodies. This bottom-up pressure can help regional arrangements to work more smoothly in cases of strong member State commitment and can help generate commitment where it is initially lacking.

51. At their best, regional human rights mechanisms can change State laws and practices, promote the rights of the most vulnerable and serve as a reference model for member States and neighbouring regions. To achieve optimal results from such arrangements, there is a need to ensure that most, if not all, States within the region ratify the relevant conventions. There is also a need to ensure the independence of judges and the existence of an enforcement mechanism for their decisions. The implementation of a monitoring mechanism to follow up on decisions is also necessary, as is allowing members of civil society to participate in the process. More broadly, collaboration with OHCHR, State Governments, local governments, national human rights institutions, corporations and NGOs at all stages of the development and operation of a mechanism must be ensured and strengthened. Lastly, securing human and financial resources is vital for ensuring effective operation.

52. The implications of the present study for the prospects of a new regional mechanism in Asia is that all actors, including Governments and civil societies, must play strong roles in promoting a mechanism of multilevel cooperation. Although there are several possible routes to creating a regional arrangement in Asia and improving existing mechanisms elsewhere, it is certain that this cannot be accomplished by simply mimicking mechanisms from other regions. It requires strong State leadership, supplemented by all relevant stakeholders such as national assemblies and legislatures, courts, national human rights institutions, law enforcement agencies and even corporations.

Recommendations

53. Member States of regional human rights arrangements need to make greater efforts to guarantee adequate funding for the latter. Without funds, even the best designed procedures will struggle to protect human rights adequately. The sustainability of regional arrangements requires strong commitment by member States and the active participation and oversight of other human rights organizations, both domestic and international. That said, worsening economic conditions around the world mean that regional arrangements may face increased competition for access to State budgets. There is a need for innovative thinking and experimentation by human rights practitioners and the international community to find ways to enable regional arrangements to do more with less. Leveraging new technologies for greater

efficiencies or streamlining traditional methods of human rights litigation are just some of the ways that resource constraints could be managed in the years ahead. Another promising possibility is using private-public partnerships to forge new types of funding arrangements between regional human rights mechanisms and Western donors, especially large charitable foundations.

54. Asia may consider establishing a human rights court or a similar human rights institution with a relevant mandate, building on lessons learned from other regions. One way to create the necessary political consensus for this court would be an innovative adaptation of the pre-existing universal periodic review process. Since all Asian countries participate in that process, it could be leveraged to facilitate discussions on enhancing regional human rights cooperation. Ideally, a regional subforum based on the universal periodic review, especially if it was open to the expanded participation of civil society, scholars and other relevant stakeholders, could focus on cooperative solutions to common problems, carry out peer reviews and encourage States to share their experiences on how to implement its recommendations. It is noteworthy that regional mechanisms, such as the Council of Europe, the OSCE Office for Democratic Institutions and Human Rights and the European Union Agency for Fundamental Rights, are now taking part in the universal periodic review process in Europe, which helps both OHCHR and the States involved. In Asia, this process could be reversed. Starting modestly as an institution for providing technical assistance to States engaged in the universal periodic review process, such a subforum would be well placed to evolve into a more comprehensive regional mechanism.

55. More support needs to be given to the actors that play key roles in establishing regional human rights cooperation at the national and local level, particularly parliaments and legislatures, law enforcement agencies, courts and municipal or local governments. A regional human rights mechanism is only as strong as the local actors responsible for implementing and guaranteeing its protections. The facilitation of horizontal cooperation between those actors will permit the dissemination of best practices and help to create State preferences for regional human rights cooperation from the ground up. As such, in the present report the Advisory Committee reiterates its earlier recommendation that local governments participate more in United Nations human rights mechanisms (A/HRC/30/49). The support provided by OHCHR for human rights education at the level of local communities in Georgia in 2015 is noteworthy in that regard.[46]

56. Regional human rights arrangements can further improve their effectiveness by improving their communications and information dissemination. For instance, the Government of Montenegro recommends the appointment of focal points for the European Court and the Council of Europe who would regularly disseminate information about special procedures and treaty bodies.[47] That could involve cooperation with human rights institutions inside their jurisdictions, such as national human rights institutions, civil society groups and individual scholars, as well as coordination and information-sharing with other regional human rights arrangements. Moreover, regional mechanisms must be more effective at explaining their importance to the public because popular support is essential for maintaining a high level of commitment.

57. Human rights institutions, including regional human rights regimes, should cooperate by tackling region-wide thematic issues, including but not limited to, women's rights, children's rights, the rights of migrants and the rights of persons with disabilities. Efforts should be made to develop the treaties on specific subjects and systems into effective tools for the promotion of human rights. An excellent case in point is the Sustainable Development Goals, which officially aim to "realize the human rights of all." Regional cooperation in the practical implementation of the Goals not only has tangible developmental benefits for the countries involved but can

[46] Survey response by the Government of Georgia.

[47] Survey response by the Government of Montenegro.

also be used to create the scaffolding of future regional human rights instruments, particularly those protecting economic and social rights. Economic, social and cultural rights may be the best place to expand regional mechanisms.

58. **OHCHR needs to play a key role in facilitating the creation of a regional or subregional human rights mechanism in Asia and in improving the operation of existing arrangements in other regions. It could accomplish this by continuing to act as an information clearing house that provides detailed, technical advice on best practices and by creating forums where negotiations and exchanges of ideas can occur. That could include offering regular newsletters that bring together updated information from regional human rights mechanisms, including on best practices, lessons learned, decisions, recommendations, reports, calendars and planned visits (A/HRC/28/31). OHCHR could also help to establish regional offices and human rights centres that provide additional institutional support for promoting the regional protection of human rights.[48] More substantively, thematic issues of common interest, such as the fight against racial and ethnic discrimination, the rights of persons with disabilities, gender equality, violence against women, and the protection of vulnerable groups are areas where the OHCHR can contribute.[49]**

59. **However, in the present report the Advisory Committee acknowledges that OHCHR cannot do more without adequate resources. Strengthening the relationship between the United Nations system and regional mechanisms through research, capacity-building and organizing workshops will require the allocation of more personnel and financial resources to the task, even if this requirement can be offset somewhat by the innovative use of technology. It is recommended that a special unit within the National Institutions, Regional Mechanisms and Civil Society Section of OHCHR be created to coordinate all activities involving regional mechanisms. The unit will require more staff than the one person currently allocated to regional mechanisms, preferably one P-4 and one P-3 or P-2. The section will also require additional funding to take on a broader scope of activities.**

60. **In addition to supporting a network of focal points, the special unit could conduct an exhaustive review of OHCHR activities regarding regional human rights mechanisms to date and develop a comprehensive strategy detailing how the regional, subregional and international human rights systems could be integrated into an effective whole. That would include elaborating criteria and methodological tools for evaluating and comparing regional mechanisms, determining their needs, compiling information on best practices and devising capacity-building benchmarks. Ultimately, the unit will seek to support the establishment of regional and subregional mechanisms and strengthen the effectiveness of existing mechanisms, which will require horizontal and vertical information-sharing and enabling their greater participation in United Nations bodies.**

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[48] Survey response by the National Council of Human Rights of Egypt.

[49] Survey response by the Government of Montenegro.